

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Enoch Sowah	Team: Squad #1	CCRB Case #: 202002918	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 04/25/2020 5:40 PM	Location of Incident: In front of 289 Blake Avenue (Between Blake and Rockaway Avenues) in Brooklyn	Precinct: 73	18 Mo. SOL 10/25/2021	EO SOL 5/4/2022	
Date/Time CV Reported Mon, 04/27/2020 4:16 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 04/27/2020 4:16 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Volodymyr Burdeynny	14915	954580	PSA 2
2. LT Favio Quizhpi	00000	948119	PSA 2

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Joseph Sorrentino	15954	957890	PSA 2

Officer(s)	Allegation	Investigator Recommendation
A.LT Favio Quizhpi	Abuse: Lieutenant Favio Quizhpi stopped the vehicle in which § 87(2)(b) and an individual were occupants.	
B.POM Volodymyr Burdeynny	Abuse: Police Officer Volodymyr Burdeynny refused to provide his name to § 87(2)(b)	
C.POM Volodymyr Burdeynny	Abuse: Police Officer Volodymyr Burdeynny refused to provide his shield number to § 87(2)(b)	
D.POM Volodymyr Burdeynny	Discourtesy: Police Officer Volodymyr Burdeynny spoke discourteously to § 87(2)(b)	
E.POM Volodymyr Burdeynny	Force: Police Officer Volodymyr Burdeynny used physical force against § 87(2)(b)	
F.POM Volodymyr Burdeynny	Abuse: Police Officer Volodymyr Burdeynny frisked § 87(2)(b)	
G.LT Favio Quizhpi	Abuse: Lieutenant Favio Quizhpi frisked an individual.	
H.LT Favio Quizhpi	Abuse: Lieutenant Favio Quizhpi searched an individual.	
I.POM Volodymyr Burdeynny	Abuse: Police Officer Volodymyr Burdeynny searched the vehicle in which § 87(2)(b) and an individual were occupants.	
J.LT Favio Quizhpi	Abuse: Lieutenant Favio Quizhpi failed to provide § 87(2)(b) and an individual with business cards.	
§ 87(2)(g), § 87(4-b)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On April 27, 2020, § 87(2)(b) called the CCRB and filed this complaint on behalf of himself, and his cousin, whose name and contact information § 87(2)(b) refused to provide.

On April 25, 2020, at approximately 5:40 p.m., in the vicinity of Blake and Rockaway Avenues in Brooklyn, Lieutenant Favio Quizhpi and Police Officers Volodymyr Burdeynny and Joseph Sorrentino, all from PSA 2, stopped the vehicle in which § 87(2)(b) and his unidentified cousin were occupants (**Allegation A: Abuse of Authority**, § 87(2)(g) PO Burdeynny refused to provide his name and shield number to § 87(2)(b) (**Allegations B and C: Abuse of Authority**, § 87(2)(g) and spoke discourteously to § 87(2)(b) (**Allegation D: Discourtesy**, § 87(2)(g) PO Burdeynny used physical force against § 87(2)(b) (**Allegation E: Force**, § 87(2)(g) and frisked him (**Allegation F: Abuse of Authority**, § 87(2)(g) Lt. Quizhpi frisked and searched § 87(2)(b)'s unidentified cousin (**Allegations G and H: Abuse of Authority**, § 87(2)(g) PO Burdeynny searched § 87(2)(b)'s vehicle (**Allegation I: Abuse of Authority**, § 87(2)(g) Lt. Quizhpi failed to provide § 87(2)(b) and his cousin with business cards (**Allegation J: Abuse of Authority**, § 87(2)(g) and § 87(2)(g), § 87(4-b)

No arrest or summonses resulted from this incident.

A cellphone and three police body worn camera videos were received for this incident (Board Review 01 – Board Review 04).

Findings and Recommendations

Allegation (A) Abuse of Authority: Lieutenant Favio Quizhpi stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that Lt. Quizhpi and Police Officers Burdeynny and Sorrentino stopped the vehicle in which § 87(2)(b) and his unidentified cousin were occupants in the vicinity of Blake and Rockaway Avenues in Brooklyn. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) (Board Review 05) said that the officers told him that he was stopped because he had failed to stop in front of the white stop line at the street intersection, and that he had consequently driven into the crosswalk prior to stopping at the stop sign. § 87(2)(b) however, denied driving and stopping on crosswalk, nor did he fail to stop in front of the white stop line at the street intersection. He also denied committing any traffic infraction, and said he ultimately never received a summons at the conclusion of this incident.

§ 87(2)(b) refused to provide the name and contact information for his cousin and attempts to identify him through police documentations were unsuccessful (Board Review 06 – Board Review 08). The investigation was thus unable to identify him and obtain a statement.

§ 87(2)(b)'s cellphone and the BWC footage all engage after the officers approached § 87(2)(b)'s vehicle, and thus does not capture any activities that might have transpired prior to the vehicle stop. The footage, however, depicts the disagreement between § 87(2)(b) and the officers about whether § 87(2)(b) committed the alleged traffic infraction (Board Review 01 – Board Review 02).

Lt. Quizhpi (Board Review 09) said the officers were driving directly behind § 87(2)(b) when they observed him fail to stop in front of the white stop line at the street intersection, which had a stop sign. § 87(2)(b) however, stopped on the crosswalk at the stop sign, and then made a left turn onto Blake Avenue. Lt. Quizhpi instructed PO Burdeynny to stop § 87(2)(b) for driving into the crosswalk and for failing to stop before the white stop line. The officers had no other reasons for stopping § 87(2)(b) and Lt. Quizhpi said he ultimately utilized his discretion not to issue § 87(2)(b) a summons for the alleged traffic infraction.

According to NYS Vehicle and Traffic Law, Title 7 Article 29, §1172 (a), every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if not, then the driver shall stop before entering the crosswalk on the near side of the intersection (Board Review 10).

§ 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Volodymyr Burdeynny refused to provide his name to § 87(2)(b)

Allegation (C) Abuse of Authority: Police Officer Volodymyr Burdeynny refused to provide his shield number to § 87(2)(b)

Allegation (D) Discourtesy: Police Officer Volodymyr Burdeynny spoke discourteously to § 87(2)(b)

Allegation (E) Force: Police Officer Volodymyr Burdeynny used physical force against § 87(2)(b)

§ 87(2)(b) said PO Burdeynny approached his driver's door and ordered that § 87(2)(b) produce his driver's license, registration, and insurance card. § 87(2)(b) greeted PO Burdeynny and requested that PO Burdeynny provide his name and shield number before § 87(2)(b) provided his vehicle's documents. PO Burdeynny, however, ignored § 87(2)(b) and ordered § 87(2)(b) to exit the vehicle. § 87(2)(b) asked why. PO Burdeynny said to § 87(2)(b) "Get out of the motherfucking car." § 87(2)(b) opened his driver's door and attempted to get out of the vehicle, but PO Burdeynny allegedly grabbed § 87(2)(b)'s left hand and pulled him out of the vehicle. PO Burdeynny then pushed § 87(2)(b) on his back towards the vehicle, and kicked § 87(2)(b)'s legs wide open. § 87(2)(b) did not sustain any injuries as a result of this incident.

PO Burdeynny, PO Sorrentino, and Lt. Quizhpi recorded the entirety of this incident on their BWCs, and none of their videos depict § 87(2)(b) requesting PO Burdeynny's name and shield number, nor do they depict PO Burdeynny using force or speaking discourteously towards § 87(2)(b). PO Burdeynny's BWC (Board Review 02) shows PO Burdeynny and PO Sorrentino exiting their vehicle and approaching the driver's side of § 87(2)(b)'s vehicle, while Lt. Quizhpi approaches the front passenger's side. § 87(2)(b) and his unidentified cousin are the only occupants in the vehicle. At 00:36, PO Burdeynny orders § 87(2)(b) to produce his driver's license and registration. At 00:58, § 87(2)(b) appears to give PO Burdeynny his vehicle's documents. At 02:19, PO Burdeynny orders § 87(2)(b) to exit the vehicle. § 87(2)(b) requests to speak to a supervisor. PO Burdeynny tells § 87(2)(b) that Lt. Quizhpi is the supervisor on scene. At 02:52, § 87(2)(b) requests to see Lt. Quizhpi's shield. Lt. Quizhpi shows § 87(2)(b) his golden shield, which hangs around his neck, and also mentions his name to § 87(2)(b). At 03:24, § 87(2)(b) exits his vehicle on his own accord and does not appear to be grabbed or pulled by PO Burdeynny. At 04:00, PO Burdeynny escorts § 87(2)(b) to the rear of his vehicle. At 07:10, § 87(2)(b) returns to his vehicle. At 10:26, PO Sorrentino asks § 87(2)(b) if he wants PO Sorrentino's name and badge number. § 87(2)(b) replies, "I don't want none of that."

§ 87(2)(b) recorded portions of this incident on his cellphone. The footage (Board Review 01) is consistent with the officers BWCs, except that § 87(2)(b) begins recording when he was instructed to exit his vehicle. The cellphone footage does not depict any of the officers speaking discourteously towards § 87(2)(b) nor does it depict any use of force. The footage also does not depict § 87(2)(b) requesting the name and shield number of PO Burdeynny or the other two officers.

§ 87(2)(b), § 87(2)(g)

Allegation (F) Abuse of Authority: Police Officer Volodymyr Burdeynny frisked § 87(2)(b)

Allegation (G) Abuse of Authority: Lieutenant Favio Quizhpi frisked § 87(2)(b)
Allegation (H) Abuse of Authority: Lieutenant Favio Quizhpi searched § 87(2)(b)
Allegation (I) Abuse of Authority: Police Officer Volodymyr Burdeynny searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that PO Burdeynny frisked § 87(2)(b) and searched § 87(2)(b)'s vehicle, and Lt. Quizhpi frisked and searched § 87(2)(b)'s unidentified cousin. § 87(2)(b), § 87(2)(g)

PO Burdeynny's BWC (Board Review 02) at 02:19, shows PO Burdeynny informing § 87(2)(b) that the officers need to inspect his vehicle because of a strong odor of marijuana emanating from the vehicle. § 87(2)(b) tells PO Burdeynny that he does not smoke and that his vehicle does not smell of marijuana. Lt. Quizhpi, who is on the passenger's side, tells § 87(2)(b) that the vehicle smells of marijuana. At 03:24, § 87(2)(b) exits his vehicle, turns around, and has his back towards PO Burdeynny. At 03:30, PO Burdeynny moves his hands around § 87(2)(b)'s thighs on the outside of § 87(2)(b)'s clothing, and grabs around § 87(2)(b)'s pants pockets. At 03:32, PO Burdeynny moves his hands towards § 87(2)(b)'s waist and groin, at which point § 87(2)(b) yells, "stop touching my dick." PO Burdeynny and PO Sorrentino then escort § 87(2)(b) to the rear of his vehicle. At 04:20, § 87(2)(b)'s cousin appears to exit the vehicle. Between 04:44 and 07:00, PO Burdeynny enters and searches the interior of § 87(2)(b)'s vehicle including underneath the seats, the consoles, and the glove compartment. At 05:40, PO Burdeynny recovers an open bottle of alcohol in the rear passenger's seat. At 05:53 he says that there is weed all over the car and at 06:10 says there is marijuana residue "all over the floor" of the vehicle. The alleged marijuana residue, is however, not clearly captured in the video. At 07:10, PO Burdeynny instructs § 87(2)(b) and his cousin to return to their vehicle. At 07:39, PO Burdeynny searches the trunk of § 87(2)(b)'s vehicle. At 10:26, PO Sorrentino informs § 87(2)(b) that the officers are "confiscating the bag of marijuana." The alleged marijuana is, however, not depicted in PO Burdeynny's BWC.

Lt. Quizhpi's BWC (Board Review 03), at 04:06, shows him instructing § 87(2)(b)'s unidentified cousin to exit the vehicle. At 04:50, Lt. Quizhpi moves his hands inside § 87(2)(b)'s cousin's jacket and around his upper and lower body. At 07:32, Lt. Quizhpi instructs the unidentified male to give him the marijuana. The male appears to reach inside his pocket and hand something to Lt. Quizhpi, but the item is not captured in the video. At 07:58, Lt. Quizhpi appears to show the said item the unidentified male gave to him to § 87(2)(b) and tells § 87(2)(b) to "make sure [he] records the marijuana." The item Lt. Quizhpi attempts to show § 87(2)(b) is not depicted in the footage. § 87(2)(b) refuses to record and asks Lt. Quizhpi where the said item was found. At 08:00, the unidentified cousin tells Lt. Quizhpi that the "marijuana" was in his pocket and not in the vehicle. At 10:39, Lt. Quizhpi informed § 87(2)(b)'s cousin that he was confiscating his weed and vouchering it at PSA2. He then provided his name, rank, and address of PSA2.

§ 87(2)(b)'s cellphone video (Board Review 01) at 04:40, captures Lt. Quizhpi showing § 87(2)(b) a hand sized clear plastic bag containing a greenish-grey mixture of what appears to be dried herbs, and asks § 87(2)(b) to record. § 87(2)(b) says no and pans the camera away from the officer. At 05:30, § 87(2)(b)'s cousin, who appears to be speaking on his cellphone, says he does not know what the officers might do, and that he feared that they might arrest him for the marijuana. § 87(2)(b) replies and tells his cousin that the officers will not arrest him because marijuana possession is "just a violation."

§ 87(2)(b) denied that his vehicle smelled of marijuana, and said there was no marijuana in his vehicle. § 87(2)(b), § 87(2)(a) CVR § 50-b, § 87(2)(g)

As discussed earlier, the investigation was unable to identify § 87(2)(b)'s cousin, and thus consequently could not reach him and obtain his statement.

Lt. Quizhpi said the officers smelled a strong odor of burnt and unburnt marijuana immediately when they approached § 87(2)(b)'s vehicle, and that the search of § 87(2)(b)'s cousin led to the recovery of a bag of marijuana from his pockets. Lt. Quizhpi acknowledged that the vehicle search, and the frisk and search of § 87(2)(b) and his cousin were solely predicated on the detection of the odor of marijuana. The officers confiscated the marijuana, which was ultimately vouchered at the PSA 2 stationhouse, but Lt. Quizhpi did not recall which officer vouchered the seized marijuana. He also said he utilized his discretion not to issue § 87(2)(b)'s cousin a summons for the marijuana.

The smell of marijuana is sufficient to provide officers with probable cause to search an automobile and its occupants. People v. Chestnut, 43 A.D 2d. 260 (1974) (Board Review 10).

§ 87(2)(b), § 87(2)(g)

Allegation (J) Abuse of Authority: Lieutenant Favio Quizhpi failed to provide § 87(2)(b) and § 87(2)(b) with business cards.

It is undisputed that Lt. Quizhpi did not provide § 87(2)(b) and his unidentified cousin with business cards.

Lt. Quizhpi said he was not required to give the two civilians business cards because the interaction with the civilians amounted to a “Level Four” probable cause encounter, and that officers were only required to give business cards in situations where officers required consent in order to frisk and search the civilians. Lt. Quizhpi thus said that given that the officers did not require consent to search § 87(2)(b) and his cousin, he was therefore not required to provide them with business cards.

A business card is to be offered with regard to law enforcement activity, including stops, frisks, and searches of persons, except in cases when a summons is issued, or an arrest is made. NYC Administrative Code 14-174 (Board Review 11).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- Lt. Quizhpi has been a member of service for 11 years, and has been a subject in 10 CCRB complaints and 26 allegations, none of which were substantiated, § 87(2)(g)
- PO Burdeynny has been a subject in seven CCRB complaints, and 34 allegations, one of which was substantiated, and 29 of which are pending investigations:
 - Case #201801245 involved a substantiated vehicle search allegation. The Board recommended Command Discipline A, and the NYPD imposed formalized training.
 - PO Burdeynny has been a subject in seven physical force allegations, two frisk allegations, three vehicle search allegations, three discourtesy allegations, and two refusal to provide name and shield allegations.

Mediation, Civil and Criminal Histories

- § 87(2)(b) elected not to mediate this complaint.
- As of December 18, 2020, the New York City Office of the Comptroller had no record of a Notice of Claim being filed in regards this to complaint (Board Review 16).
- According to the Office of Court Administration (OCA), § 87(2)(b) does not have any history of convictions in New York City (Board Review 17).

Squad No.: 1

Investigator:	<u>Enoch Sowah</u>	<u>Inv. Sowah</u>	<u>01/15/2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Mgr. Joy Almeyda</u>	<u></u>	<u>1.19.21</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date

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